

Notice of Allowability

Application No.

10/077,521

Applicant(s)

BREHOVE, JAMES EDWARD

Examiner

Sharmila S. Gollamudi

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/7/04.
2. ☒ The allowed claim(s) is/are 15 and 16.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ernest Buff on June 21, 2004 to change the grammatical errors in the claims and for clarification purposes.

The application has been amended as follows:

In claim 15, line 3, delete "ingredient" and insert "ingredients".

In claim 15, line 3 delete "species selected from the group consisting".

In claim 15, line 3 insert "a" after "of" and before "2,2'".

In claim 15, line 4, replace "and" with "and a".

In claim 15, line 5 delete "for a period sufficient to end the infection".

Claim 15 should read: A method for the treatment of nail infections comprising:
periodically applying to the infected nail a composition comprising:

a) as active ingredients at least one of a 2,2' - (alkyldioxy) bis-(alkyl- 1,3,2 - dioxaborinane) and a 2,2'-oxybis(alkyl-1,3,2- dioxaborinane), said active ingredient ranging from about 0.1 wt% to 25wt% of the composition;

b) at least one member selected from the group consisting of white mineral oil, petroleum jelly, and paraffin wax;

for a period sufficient to end the infection.

In claim 16, line 2 insert "one of the" before "as" and after "active". Also, delete "ingredient" and insert "ingredients".

In claim 16, lines 2-3 delete "at least one member selected from the group consisting".

In claim 16, line 2 change "Claim" to "claim".

In claim 16, line 4 delete "and" and insert "or".

Claim 16 should read: A method for the treatment of nail infections as recited by claim 15 wherein the composition applied comprises as one of the active ingredients 2,2' - (1-methyltrimethylene dioxy) bis - (4-methyl- 1, 3, 2-dioxaborinane) or 2,2' - oxybis (4, 4, 6-trimethyl-1, 3, 2-dioxaborinane).

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: Although the prior art teaches the known biocidal activity of organo-boron compounds, however the closest prior art does not teach nor fairly suggest the treatment of nail infections utilizing the combination of instant organo-boron compounds.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-272-0614. The examiner can normally be reached on M-F (8:00-5:00), alternate Fridays off.

Application/Control Number: 10/077,521
Art Unit: 1616

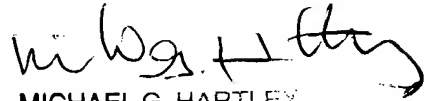
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharmila S. Gollamudi
Examiner
Art Unit 1616

SSG


MICHAEL G. HARTLEY
PRIMARY EXAMINER